IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.14548 of 2004

Between:

S. Srinivas S/o. Late Vijay Kumar, 40 years,
Shop 29, Indira Priyadarsini Market Complex,
Tirupathi.

...PETITIONER

AND

1. The Municipal Commissioner, Tirupati Municipality, Tirupati.
2. The Revenue Officer, Tirupati Municipality, Tirupati.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Impugned Proceedings R.O.C.No.12855/99/A1 dated 11.11.2003 issued by the 1st respondent through the 2nd respondent as illegal, arbitrary, highly excessive and contrary to the A.P. Municipalities Receipt and Expenditure Rules and set-aside the same and consequently direct the respondents to follow the rules by enhancing the rent 33% of which was followed in the case of shop Room NO.66.

Counsel for the Petitioner: SMT.S.V.INDIRA

Counsel for the Respondents: MR.K.M.MAHENDER REDDY

The Court at the admission stage made the following:

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ORDER:

The petitioner claims to belong to Scheduled Tribe. The Municipal Commissioner, Tirupati Municipality, the first respondent herein leased out shop No.29 at Indira Priyadarsini Market Complex to the petitioner on a monthly rent of Rs.155/- (Rupees one hundred and fifty five only) for a period of three years commencing from 01.08.1994. The lease was renewed from time to time till 31.03.2003 at a monthly enhanced rent of Rs.210/- (Rupees two hundred and ten only). The first respondent, by proceedings in ROC.No.1285/99/A1, dated 11.11.2003, informed the petitioner that the Municipality decided to extend the lease for another period of three years from 01.04.2003 to 31.03.2006, subject to the lessee paying monthly enhanced rent of Rs.1,600/- (Rupees one thousand six hundred only) and the petitioner was asked to pay the difference of rentals, a sum of Rs.11,540/- (Rupees eleven thousand five hundred and forty only). Assailing the same, the petitioner has filed the present Writ Petition after a lapse of about nine months.

Learned counsel for the petitioner contends that as per G.O.Ms.No.258M.A., Municipal Administration and Urban Development (J1) Department, dated 02.04.1993, when the shops are leased out in favour of members of Scheduled Tribes, the Municipality has to lease out the shops under payment of Rs.2.50 ps per square feet or 50% of the rent paid by the neighbouring shop rooms, which ever is less, without the normal channel of public auction and therefore, the impugned proceedings are not sustainable. She also submits that after receipt of the proceedings, the petitioner made a representation before the first respondent, which has not been disposed of by the first respondent.

The first respondent has issued impugned proceedings in November 2003 and the petitioner has approached this Court with considerable delay. Therefore, this Court is not inclined to adjudicate the issue, especially when the representation made by the petitioner is pending. Therefore, the petitioner may seek redressal with reference to the representation made by the first respondent. The first respondent may consider the representation of the petitioner and pass appropriate orders within a period of two (2) months from the date of receipt of a copy of this order in accordance with the Andhra Pradesh Municipalities (Regulation of Receipts and Expenditure) Rules, 1968 and the executive instructions issued by the Government in G.O.Ms.No.258, dated 02.04.1993.

The Writ Petition, with the above observations, is disposed of at the admission stage.

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(V.V.S.RAO, J)

17th August 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Municipal Commissioner, Tirupati Municipality, Tirupati.
2. The Revenue Officer, Tirupati Municipality, Tirupati.
3. Two CD copies.